

EXECUTIVE SUMMARY

PURPOSE

To describe marketing practices of orthotic body jacket suppliers.

BACKGROUND

In 1993, the Office of Inspector General (OIG) conducted an inspection to determine whether or not Medicare was appropriately billed for orthotic body jackets. We found that

- Medicare claims and allowed charges for orthotic body jackets have increased substantially since 1990, and
- 95 percent of the orthotic body jacket claims paid by Medicare in 1991 under code L0430 were for non-legitimate devices. They did not meet the construction requirements and medical purpose of legitimate body jackets.

While conducting the inspection, we found that many suppliers had questionable marketing practices and billed Medicare for non-legitimate devices.

FINDINGS

Suppliers, Rather Than Physicians, Initiated Orders for Non-Legitimate Body Jackets

Licensed orthotists told us physicians should refer patients needing orthotic body jackets to orthotic suppliers. The orthotists said suppliers should not independently market devices to patients themselves. The suppliers of orthotic body jackets should have licensed orthotists trained to take patients' measurements and custom-fit devices.

The non-legitimate devices we found in our sample were marketed by Durable Medical Equipment (DME) salespersons before prescriptions or Certificates of Medical Necessity (CMNs) were written by physicians. Typically, DME salespersons marketed their devices for use by nursing home residents. Salespersons presented their products to nursing home directors and physical therapists as restraint alternatives to help patients sit upright in wheelchairs. When a patient agreed to purchase a device, salesmen either completed a CMN or prescription, or gave nursing home staff wording to use and they completed the CMN. The nursing home staff then sent the CMN to a physician for signature. Either the DME salesperson or the nursing home physical therapist, not a trained orthotist, made any adjustments to the device.

Physicians Provided No Control for Preventing Sales of Non-Legitimate Devices

Most physicians of beneficiaries in our sample with non-legitimate devices were not aware of what they had signed a prescription or CMN for. They simply signed prescriptions or CMNs that had been completed either by suppliers or nursing home staff using suppliers' wording. Twenty-two of 38 physicians who had signed CMNs for non-legitimate devices had never seen the devices. Eleven of the 22 had no record of prescribing any type of device. Most physicians who had seen devices did not realize suppliers had billed Medicare for more sophisticated devices. They assumed suppliers had billed for cushioned wheelchair seating supports rather than custom-fit orthotic body jackets.

CMNs Did Not Assure Medical Necessity

CMNs were signed by physicians even though patient diagnoses and conditions listed on CMNs did not support the need for orthotic body jackets.

Licensed orthotists told us legitimate orthotic body jackets are commonly used to treat injuries to the spine such as vertebra fractures and compression, and to facilitate healing following a surgical procedure on the spine or related tissues.

None of the diagnoses listed on CMNs for non-legitimate devices indicated spinal injuries or surgical procedures. The diagnoses suggested that the patients could have problems sitting upright in wheelchairs, but most conditions were associated with advanced age rather than spinal injuries. Frequently mentioned conditions were dementia, osteoarthritis, Alzheimer's and Parkinson's.

CONCLUSION

To market a non-legitimate device as an orthotic body jacket, DME suppliers took advantage of (1) nursing homes' desires for restraint alternatives, (2) nursing home patients with both Medicare and Medicaid not having to pay for the products, and (3) physicians' laxity in attention to CMNs they signed. The extent of this practice raises serious questions about the value of CMNs and marketing in nursing homes (95 percent of our sample were non-legitimate devices).

OIG has inspections planned that will study this issue in detail. The inspections will look at (1) the usefulness of CMNs, (2) the appropriateness of payments for equipment, supplies, and professional services provided to beneficiaries in nursing homes, and (3) the role of physicians in controlling patients' medical care.

In the meantime, we suggest that HCFA continue to alert their regional fraud and abuse coordinators and contractors to potential abuse in this area, and advise contractors to exercise diligence in reviewing claims for orthotic body jackets.